

## **BOARD OF APPEALS MINUTES**

**September 9, 2003**

**On Tuesday September 9, 2003 at 7 p.m. the Town of Clarence Zoning Board of Appeals heard the following requests for variances:**

### **OLD BUSINESS**

**William Szabo  
Agricultural**

**Requests the Board of Appeals approve and grant a fifteen foot (15') variance creating a ten foot (10') rear lot line setback for the construction on an accessory building at 8425 Clarence Center Road.**

**APPEAL FROM JULY 8, 2003 is in variance to Article V, section 30-27, size of yards.**

### **OLD BUSINESS**

**Julie Kozlowski  
Agricultural**

**Requests the Board of Appeals approve and grant a one hundred fifty foot (150') variance creating a two hundred fifty foot (250') front lot line setback for construction of a new home at 9070 Sesh Road.**

**APPEAL FROM MAY 13, 2003 is in variance to Article V, section 30-27 B, size of yards.**

### **NEW BUSINESS**

#### **APPEAL NO I**

**Chris & Paula Cimerman  
Residential A**

**Requests the Board of Appeals approve and grant a two foot (2') variance creating an eight foot (8') side lot line setback for an addition at 9230 Via Cimato Drive. (Off Heise Road)**

**APPEAL NO I is in variance to Article II, section 30-12 D, size of yards.**

#### **APPEAL NO II**

**Thomas Campbell  
Residential A**

**Requests the Board of Appeals approve and grant a four foot (4') variance creating a six foot (6') side lot line setback for an attached garage at 9657 Carmelo Court. (Deerview Estates off Keller Road.)**

**APPEAL NO II is in variance to Article II, section 30-12 D, size of yards.**

**APPEAL NO III  
Greenbridge Homes  
Residential A**

**Requests the Board of Appeals approve and grant a fifteen hundredths of a foot (.15') variance creating a thirty four and eighty five hundredths foot (34.85') front lot line setback for a front porch at 8780 Millcreek Drive. (Off Stahley Road across from Michael Douglas Dr.) Porch is already built.**

**APPEAL NO III is in variance to Article II, section 30-12 A, size of yards.**

**APPEAL NO IV  
Susan Piestrak Greene  
Residential A**

**Requests the Board of Appeals approve and grant a variance to the Town of Clarence Grading Code top of wall requirements to allow walk out and daylight basements in Stone Creek Subdivision Phase 5.**

**APPEAL NO IV is in variance to Article XI, section 30-57 C - ordinance enclosed.**

**APPEAL NO V  
Brian Bibler  
Residential A**

**Requests the Board of Appeals approve and grant a four foot (4') variance creating a one foot (1') side lot line setback for placement of a shed at 4111 Wildwood Drive.**

**APPEAL NO V is in variance to Article II, section 30-13 A, accessory buildings.**

**APPEAL NO VI  
Jeanne Smith  
Agricultural**

**Requests the Board of Appeals approve and grant a twenty five foot (25') variance creating a one hundred twenty five foot (125') front lot line setback for the construction of a new home at 9855 Martin Road.**

**APPEAL NO VI is in variance to Article V, section 30-27 B, size of yards.**

**APPEAL NO VII  
Jeff Vaillancourt  
Agricultural**

**Requests the Board of Appeals approve and grant a seventy five foot (75') variance creating a one hundred seventy five foot (175') front lot line setback for the construction of a new home at 10364 County Road.**

**APPEAL NO VII is in variance to Article V, section 30-27 B, size of yards.**

**APPEAL NO VIII  
Robert Schwendler  
Residential B**

**Requests the Board of Appeals approve and grant a six foot (6') variance creating a four foot (4') side lot line setback for construction of a new two car garage at 4745 Sawmill Road.**

**APPEAL NO VIII is in variance to Article II, section 30-12 D, size of yards.**

**APPEAL NO IX  
Santo Padilla  
Residential B**

**Requests the Board of Appeals approve and grant two variances:**

- 1. To allow a second garage to be constructed.**
- 2. A seven hundred eighty square foot (780 sq.ft.) variance to allow the construction of a fourteen hundred forty square foot (1440 sq.ft.) garage at 5045 Salt Road.**

**APPEAL NO IX is in variance to Article II, section 30-13 D & B, accessory buildings.**

**APPEAL NO X  
Mr. David Sarles  
Residential A**

**Requests the Board of Appeals approve and grant three variances:**

- 1. To allow a second garage.**
- 2. To allow a one hundred ninety two square foot (192 square foot) variance creating a nine hundred twelve square foot (912 square foot) garage.**
- 3. To allow a three foot (3') height variance creating a nineteen foot (19') high garage at 4680 Greenbrier Rd.**

**APPEAL NO X is in variance to Article II, section 30-13 B, C, & D, accessory buildings.**

**ATTENDING:**      **John Brady  
John Gatti  
Raymond Skaine  
Arthur Henning  
Ronald Newton**

**INTERESTED PERSONS:**

**William Szabo  
Jeff Palumbo  
Julie & Paul Kozlowski  
Jenifer Young  
Chris Cimerman  
Thomas Campbell  
Greenbridge Homes  
Susan Greene  
Brian Bibler  
Tim Harris  
Jeff Vaillancourt  
Robert & Karla Schwendler  
Santo Padilla  
Peter Scharf  
Mike Burkhardt  
Frank Acker**

**Kelly & Ken Fetter  
Bonnie Engasser  
James Shimo  
Chris Engasser  
David Sarles  
Patricia Sarles**

**OLD BUSINESS**

**William Szabo  
Agricultural**

**Requests the Board of Appeals approve and grant a fifteen foot (15') variance creating a ten foot (10') rear lot line setback for the construction of an accessory building at 8425 Clarence Center Road.**

**DISCUSSION:**

**Mr. Szabo said he has decided to place the building at 18 feet from the rear lot line, rather than at 10 feet. He will not have to move the row of pine trees. He will be constructing a steel building, not a pole barn. It will be the same color as the house.**

**ACTION:**

**Motion by John Gatti, seconded by Ron Newton to approve Appeal No IV from the July 8, 2003 meeting.**

**ALL VOTING AYE. MOTION CARRIED.**

**OLD BUSINESS**

**Julie Kozlowski  
Agricultural**

**Requests the Board of Appeals approve and grant a one hundred fifty foot (150') variance creating a two hundred fifty foot (250') front lot line setback for construction of a new home at 9070 Sesh Road.**

**DISCUSSION:**

**Attorney Jeffrey Palumbo presented his case for the Kozlowski's, as well as the issues and objections of the neighbors. After much discussion and re-hashing, the board made a motion to annul the decision they made on June 10, 2003.**

**ACTION:**

**Motion by Raymond Skaine, seconded by John Gatti to annul the action of the Board of Appeals on June 10, 2003.**

**ALL VOTING AYE. MOTION CARRIED.**

**ACTION:**

**Motion by Ronald Newton, seconded by John Gatti to deny the appeal request for a one hundred fifty foot variance creating a two hundred fifty foot front lot line setback.**

**Ron Newton AYE**

**Arthur Henning**

**NAY**

**John Gatti AYE**

**Raymond Skaine**

**NAY**

**John Brady NAY**

**MOTION FAILED.**

**ACTION:**

**Motion by Raymond Skaine, seconded by Ron Newton to approve Appeal No IV with a fifty foot (50') variance creating a one hundred fifty foot (150') front lot line setback, and a thirty foot east line side lot setback for the construction of a new home at 9070 Sesh Road.**

**ALL VOTING AYE. MOTION CARRIED.**

APPEAL NO I  
Chris & Paula Cimerman  
Residential A

Requests the Board of Appeals approve and grant a two foot (2') variance creating an eight foot (8') side lot setback for an addition at 9230 Via Cimato Drive. (off Heise Road)

**DISCUSSION:**

Mr. Cimerman said they are in need of more storage room. Rather than build a shed they chose to add an additional garage for year round use. Their neighbors do not have any objections. They will also be expanding the laundry room, but it will not require a variance. No one had any real objections to the variance request.

**ACTION:**

Motion by John Gatti, seconded by Raymond Skaine to approve Appeal No I as written.

**ALL VOTING AYE. MOTION CARRIED.**

APPEAL NO II  
Thomas Campbell  
  
Residential A

Requests the Board of Appeals approve and grant a four foot (4') variance creating a six foot (6') side lot line setback  
for an attached garage at 9657 Carmelo Court.

**DISCUSSION:**

Mr. Campbell said they need storage room for a tractor, a kayak, and a pop up camper that they own. No one on the board had a problem with the request.

**ACTION:**

Motion by Raymond Skaine, seconded by Arthur Henning to approve Appeal No II as written.

**ALL VOTING AYE. MOTION CARRIED.**

APPEAL NO III  
Greenbridge Homes  
Residential A

Requests the Board of Appeals approve and grant a fifteen hundredths of a foot (.15') variance creating a thirty four and eighty five hundredths foot (34.85') front lot line setback for a front porch at 8780 Millcreek Drive. (Off Stahley Road across from Michael Douglas Drive) Porch is already built.

DISCUSSION:

The surveyor gave the architect the measurement. Based upon that information they enlarged the porch. He didn't know the information from the surveyor was off resulting in the need for the variance of fifteen hundredths of a foot.

ACTION:

Motion by Raymond Skaine, seconded by Ron Newton to approve Appeal No III as written.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO IV  
Susan Piestrak Greene  
Residential A

Requests the Board of Appeals approve and grant a variance to the Town of Clarence Grading Code top of the wall requirements to allow walk out and daylight basements in Stone Creek Subdivision Phase 5.

DISCUSSION:

Susan Greene said "With the change in the national building code you have to have two egresses, and this is the most cost effective way to do it. They have spoken to the Engineering Department, and as long as they stick to what they have submitted to him, the Engineering Department does not have a problem." Ray Skaine asked if this will be adjusted by the Planning Board from now on in future developments. Jim Callahan said "What we are looking at is a change in the zoning code, but as long as the zoning code reads the way it does now, this is the action we will have to proceed with. Forty inches over the centerline is the max, so this allows an increased grade." No one on the board had any questions.

ACTION:

Motion by John Gatti, seconded by Raymond Skaine to approve Appeal No Iv as written.

On the Question?

Ron Newton asked Susan Greene if she would be willing to add "as per the Engineering requirements?" Susan said yes.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO V  
Brian Bibler  
Residential A

Requests the Board of Appeals approve and grant a four foot (4') variance creating a one foot (1') side lot line set back for placement of a shed at 4111 Wildwood Drive.

DISCUSSION:

Mr. Bibler said the storage in his garage is not sufficient, he would like to keep his cars in the garage in the winter. He needs room for his garbage cans, lawn mower, snow blower etc. and if he clears out the garage, it will give him room

for the cars. Therefore, he needs the shed to put all those items into. His neighbors had no problems with it. The shed will be hidden from the neighbors It will be constructed of vinyl, the floor is wooden, and the doors are steel - made by Duro-Shed.

ACTION

Motion by Ronald Newton, seconded by Arthur Henning to approve Appeal No V as written.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO VI  
Jeanne Smith  
Agricultural

Requests the Board of Appeals approve and grant a twenty five foot (25') variance creating a one hundred twenty five foot (125') front lot line setback for the construction of a new home at 9855 Martin Road.

DISCUSSION:

Tim Harris is the contractor who will build the house. They dug some test holes and found water in that area, so they want to move the house back to 125 feet and get away from the water. Actually, the applicant wanted to be closer to the road, but due to the water problems they have had to request a variance. Ron Newton asked why it wasn't staked properly. Mr. Harris said it was staked, but they stripped it and took the stakes out thinking the board had already visited the stake.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to approve Appeal No VI as written.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO VII  
Jeff Vaillancourt  
Agricultural

Requests the Board of Appeals approve and grant a seventy five foot (75') variance creating a one hundred seventy five (175') front lot line setback for the construction of a new home at 10364 County Road.

DISCUSSION:

Mr. Vaillancourt said the traffic on County Road is very busy, and will just get busier in the future. With three small children, they would like to sit back from the road. The backyard has a little higher ground and they would like to get away from the noise of the road. No one on the board had any problem with the request.

ACTION:

Motion by Ronald Newton, seconded by Raymond Skaine to approve Appeal No VII as written.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO VIII  
Robert Schwendler  
Residential B

Requests the Board of Appeals approve and grant a six foot (6') variance creating a four foot (4') side lot line set back for construction of a new two car garage at 4745 Sawmill Road.

DISCUSSION:

Appeal No VIII is corrected to read a four foot (4') variance creating a six foot (6') side lot line set back for construction of a new two car garage at 4745 Sawmill Road. Mr. Schwendler explained that without the variance they could only construct a one and a half car garage. The extra four feet will allow them to build a two car garage. The shed will be taken down, and moved. The new garage will blend right in with the existing home.

ACTION:

Motion by John Gatti, seconded by Arthur Henning to approve Appeal No VIII as written with revision.

ALL VOTING AYE. MOTION CARRIED.



APPEAL NO IX  
Santo Padilla  
Residential B

Requests the Board of Appeals approve and grant two variances:

1. To allow a second garage to be constructed.
2. A seven hundred eight square foot (780 sq.ft.) variance to allow the construction of a fourteen hundred forty square foot (1440 sq.ft.) garage at 5045 Salt Road.

DISCUSSION:

Mr. Padilla said he needs to be able to store vehicles. His Mother and Sister live with him, and he has three vehicles of his own. He has a garage that is packed, and he has a storage unit that he rents. He has a boat at his Fathers house, and he plans on buying a couple of snowmobiles. Two letters were presented and read to the board signed by several neighbors. They listed their objections to this variance. It will change the character of their neighborhood and will destroy the aesthetics of the neighborhood with excessive storage buildings giving it a commercial look.

Mr. Engasser said there is a septic field problem to be considered. If he puts a road on top of that, it will compound the problem. The neighbors have a problem with the size of the building. It is excessive for a tractor, clutter and a boat. If it doesn't exceed 720 sq. ft. they don't have a problem.

ACTION:

Ron Newton made a motion to take a field trip to the property and try and picture the leech field problems that are being described, and to try and visualize the size of the building and the location. John Gatti said that is the Health Departments concern, not the boards. Ray Skaine said we can visualize that, and the building inspector feels that a height variance is also necessary. The motion did not receive a second.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to table this item and have the petitioner provide a detailed architectural sketch, and a picture of exactly what it is going to look like to the members of the Board of Appeals. Also, to provide a letter of approval from Building Inspector Paul Gross that he agrees with what you are putting up. Also to better mark the outline of the building.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO X  
David Sarles  
Residential A

Requests the Board of Appeals approve and grant three variances:

1. To allow a second garage.
2. To allow a one hundred ninety two square foot (192 sq. ft.) variance creating a nine hundred twelve square foot (912 sq. ft.) garage.
3. To allow a three foot (3') height variance creating a nineteen foot (19') high garage at 4680 Greenbrier Road.

DISCUSSION:

Mr. Sarles stated they will be matching the existing three car garage. The roof will match the slope of their home. Their existing side load attached three car garage looks like part of their house, this three car garage will face the street.

Ray Skaine asked for an architectural picture of the proposed garage. Ron Newton asked why he needs an additional three car garage. They have three vehicles, a pick up truck, a lawnmower and a four wheeler.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to approve Appeal No X as written.

ALL VOTING AYE. MOTION CARRIED.

Meeting adjourned at 9:30 p.m.  
John P. Brady, Chairman